

# Title 357 WAC

## PERSONNEL, DEPARTMENT OF— PERSONNEL RESOURCES BOARD

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### Chapter 357-01 WAC DEFINITIONS

#### WAC

357-01-072 Child.

**WAC 357-01-072 Child.** A biological, adopted, or foster child, or a stepchild, a legal ward, or a child of a person standing in loco parentis.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-01-072, filed 8/20/07, effective 9/20/07; 07-03-054, § 357-01-072, filed 1/12/07, effective 2/15/07; 06-19-063, § 357-01-072, filed 9/19/06, effective 10/20/06; 05-12-093, § 357-01-072, filed 5/27/05, effective 7/1/05.]

### Chapter 357-07 WAC PUBLIC RECORDS

#### WAC

357-07-065 How is the department of personnel organized?

**WAC 357-07-065 How is the department of personnel organized?** The staff is organized in six general areas:

(1) Personnel services: Provides consultation and services related to recruitment, assessment, affirmative action, human resources, salary surveys, compensation plan administration, and classification to state agencies, institutions of higher education, and related higher education boards.

(2) Organization and employee development services (located at 600 South Franklin Street, Olympia, Washington): Provides organizational, management, and employee development services to all state agencies.

(3) Administrative services: Provides support services for facilities and supplies, financial services including payroll and travel, duplicating and mailroom services, combined fund drive, forms and records management, administration of

agency and statewide master contracts, and administers the statewide employee survey. Within the administrative division, the employee assistance program (EAP) helps with personal or work related problems affecting work performance. EAP offices are at the following locations: 1222 State Ave. N.E., Suite 201, Olympia, Washington; 701 Dexter Ave. N. #108, Seattle, Washington; and at Suite 604, Northtown Office Building, Spokane, Washington.

(4) Legal affairs: Provides affirmative action consultation, rule interpretation, labor/employment discrimination guidance, legislative services and responds to requests for public records. Provides director's review and appeal services (located at 2828 Capitol Blvd., Olympia, Washington), processes and adjudicates requests for director's reviews and provides administrative support for personnel resources board appeals.

(5) Director's office: Provides agency leadership, internal human resources, planning and performance, communication services, and operational support.

(6) Information services (located at Building #1, Rowesix, [4224] [4424] 6th Avenue, Lacey, Washington): Administers all central statewide technology systems supporting human resources activities.

[Statutory Authority: Chapter 41.06 RCW. 07-23-007, § 357-07-065, filed 11/8/07, effective 12/11/07; 06-19-064, § 357-07-065, filed 9/19/06, effective 10/20/06; 05-01-202, § 357-07-065, filed 12/21/04, effective 7/1/05.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

### Chapter 357-13 WAC CLASSIFICATION

#### WAC

357-13-025 What criteria must be met in order for the director to adopt revisions or salary adjustments to the classification plan?

**WAC 357-13-025 What criteria must be met in order for the director to adopt revisions or salary adjustments to the classification plan?** (1) The following three criteria must be met for the director to adopt revisions or salary adjustments to the classification plan:

(a) Implementation of the proposed revision or salary adjustment will result in net cost savings, increased efficiencies, or improved management of personnel or services;

(b) The office of financial management has reviewed the fiscal impact statement of the affected employer and concurs that the biennial cost of the revision or salary adjustment is absorbable within the employer's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia; and

(c) The revision or salary adjustment is due to one of the following causes, as defined by the director in the classification and pay guidelines:

[and]

(i) Documented recruitment or retention difficulties;

(ii) Salary compression or inversion;

- (iii) Classification plan maintenance;
  - (iv) Higher level duties and responsibilities; or
  - (v) Inequities.
- [iv]

(2) The provisions of subsection (1)(b) and (1)(c) of this section do not apply to the higher education hospital special pay plan or to any adjustments to the classification plan that are due to emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

[Statutory Authority: Chapter 41.06 RCW. 07-17-127, § 357-13-025, filed 8/20/07, effective 9/20/07; 05-01-201, § 357-13-025, filed 12/21/04, effective 7/1/05.]

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## Chapter 357-16 WAC

### RECRUITMENT, ASSESSMENT, AND CERTIFICATION

#### WAC

357-16-025 How must employers and the department inform prospective applicants of recruitments?

**WAC 357-16-025 How must employers and the department inform prospective applicants of recruitments?** Employers shall determine the appropriate method to solicit job seekers, which may include but not be limited to, public announcements; searching the state central talent pool; or, using an employer maintained talent pool. Recruitment announcements shall inform prospective job seekers how to apply for, or express interest in, positions which may come open for recruitment.

[Statutory Authority: Chapter 41.06 RCW. 07-23-009, § 357-16-025, filed 11/8/07, effective 12/11/07; 06-19-065, § 357-16-025, filed 9/19/06, effective 10/20/06; 05-01-200, § 357-16-025, filed 12/21/04, effective 7/1/05.]

## Chapter 357-19 WAC

### APPOINTMENT AND REEMPLOYMENT

#### WAC

357-19-115 To which employer and position would an employee revert?

357-19-183 Must DEL conduct background checks on all employees in covered positions and individuals being considered for a covered position?

357-19-184 Besides the DEL, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?

357-19-185 What is a covered position for purposes of WAC 357-19-183, 357-19-187, and 357-19-191?

357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DEL and what are the results of the background check used for?

357-19-187 For purposes of WAC 357-19-183, must an employee and/or individual being considered for a covered position authorize the director of the DEL or designee to conduct a background check and what happens if the employee or individual being considered for a covered position does not provide authorization?

357-19-188 What happens when a permanent DEL employee is disqualified because of a background check?

357-19-189 What are the responsibilities of the director of the DEL in carrying out the requirement to conduct background checks?

357-19-191 Does a permanent employee of DEL who is disqualified from a covered position as a result of a background check have the right to request a review of the disqualification?

**WAC 357-19-115 To which employer and position would an employee revert?** A permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period or has failed to progress to the next step of an in-training plan in accordance with WAC 357-19-285, has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(1) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

(a) Allocated to the class the employee last held permanent status in; or

(b) If no positions are available, allocated to a class which has the same or lower salary range maximum.

(2) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class which has the same or lower salary range maximum as the class from which the employee is reverting.

[Statutory Authority: Chapter 41.06 RCW. 07-03-052, § 357-19-115, filed 1/12/07, effective 2/15/07; 06-15-065, § 357-19-115, filed 7/13/06, effective 8/14/06; 05-12-077, § 357-19-115, filed 5/27/05, effective 7/1/05; 05-01-206, § 357-19-115, filed 12/21/04, effective 7/1/05.]

**WAC 357-19-183 Must DEL conduct background checks on all employees in covered positions and individuals being considered for a covered position?** (1) The director of the department of early learning (DEL) or designee must conduct background checks on all employees in covered positions and individuals being considered for a covered position.

(2) The requirement for background checks must include the following:

(a) Current employees in covered positions.

(b) Any employee considered for a covered position because of a layoff, reallocation, transfer, promotion or demotion, or other actions that result in the employee being in a covered position.

[(b)] [(c)] Any individual being considered for positions which are covered positions.

(3) Considered for positions includes decisions about:

(a) Initial hiring, layoffs, reallocations, transfers, promotions, demotions, or

(b) Other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-183, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-183, filed 5/27/05, effective 7/1/05.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 357-19-184 Besides the DEL, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?** (1) Employers may conduct background checks on applicants and/or employees if required by state or federal law, or if the employer identifies the need for a background check to verify that the applicant or employee satisfies the position requirements.

(2) Employers who conduct background checks must develop procedures regarding how and when background checks will be conducted. The procedures must include notification to applicants and/or employees if a background check is required.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-184, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-184, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-185 What is a covered position for purposes of WAC 357-19-183, 357-19-187, and 357-19-191?** For purposes of WAC 357-19-183, 357-19-187 and 357-19-191 a covered position is one in which a person will or may have unsupervised access to children.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-185, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-185, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DEL and what are the results of the background check used for?** (1) The background check information considered by the director of the DEL will include but not be limited to conviction records, pending charges, and disciplinary board final decisions.

(2) The results of the background check must be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-186, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-186, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-187 For purposes of WAC 357-19-183, must an employee and/or individual being considered for a covered position authorize [authorize] the director of the DEL or designee to conduct a background check and what happens if the employee or individual being considered for a covered position does not provide authorization?** An employee and/or individual applying for or being considered to remain in a covered position must authorize the director of the DEL or designee to conduct a background check.

Failure to authorize the director of the DEL or designee to conduct a background check disqualifies an employee or individual from consideration for any covered position including their current covered position.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-187, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-187, filed 5/27/05, effective 7/1/05.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 357-19-188 What happens when a permanent DEL employee is disqualified because of a background check?** (1) A permanent employee with a background check disqualification may be subject to any of the following actions in no specific order:

- (a) Voluntary demotion;
- (b) Job restructuring;
- (c) Voluntary resignation;
- (d) Job reassignment;
- (e) Nondisciplinary separation in accordance with WAC 357-46-195; or
- (f) Disciplinary action in accordance with WAC 357-40-010.

(2) An appointing authority may use the following interim measures while exploring the availability of actions (not to exceed thirty calendar days except in cases where there are investigations of pending charges):

- (a) Voluntary use of accrued vacation, exchange, and/or compensatory time;
- (b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or
- (c) Reassignment to another work location.
- (d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(3) Before a permanent employee may be separated due to a background check disqualification, the search for a non-covered position will occur over a period of thirty calendar days.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-188, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-188, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-189 What are the responsibilities of the director of the DEL in carrying out the requirement to conduct background checks?** (1) In order to implement the requirements of WAC 357-19-183, the director of the DEL or designee must:

- (a) Notify employees and individuals being considered for covered positions that a background check is required for covered positions; and
- (b) Develop policies and procedures pertaining to background checks.

(2) Information contained in background checks must be used solely for the purpose of determining the character, suitability and competence of the employee and/or individual being considered for covered positions. The information must not be disseminated further. Dissemination and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC. However, results

of a background check may be discoverable pursuant to the rules of civil discovery, or subject to disclosure pursuant to a public records request.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-189, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-189, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-191 Does a permanent employee of DEL who is disqualified from a covered position as a result of a background check have the right to request a review of the disqualification?** A permanent employee of DEL who is disqualified from a covered position as a result of a background check has the right to present to the director of the DEL or designee evidence that mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

- (1) The employee's background check authorization and disclosure form;
- (2) The employee's age at the time of conviction, charge, or disciplinary board final decision;
- (3) The nature and severity of the conviction, charge, or disciplinary board final decision;
- (4) The length of time since the conviction, charge, or disciplinary board final decision;
- (5) The nature and number of previous offenses;
- (6) Vulnerability of the child to which the employee will or may have unsupervised access; and
- (7) The relationship between the potentially disqualifying event and the duties of the employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-191, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-191, filed 5/27/05, effective 7/1/05.]

## Chapter 357-25 WAC AFFIRMATIVE ACTION

### WAC

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|------------|---|
| 357-25-025 | What are the policy statement requirements that employers must comply with for the purpose of chapter 357-25 WAC? |
| 357-25-027 | What must be included in the agency's sexual harassment policy?   |

**WAC 357-25-025 What are the policy statement requirements that employers must comply with for the purpose of chapter 357-25 WAC?** (1) All employers must maintain:

- (a) An affirmative action and equal employment opportunity policy statement; and
- (b) Policy statements on sexual harassment and reasonable accommodation.
- (2) The employer's affirmative action and equal employment opportunity policy statement must be reviewed and approved by the head of the agency, institution, or related higher education board each year. The policy statements on sexual harassment and reasonable accommodation must be updated as needed.
- (3) Agencies as defined in RCW 41.06.020 must submit their sexual harassment policy as follows:
  - (a) Agencies with fifty or more full time equivalent employees must submit their policy to the department with

the employer's affirmative action plan and affirmative action plan update.

(b) Agencies with twenty-five to forty-nine full time equivalent employees must submit their policy to the department with their small agency workforce profile.

(c) Agencies with fewer than twenty-five full time equivalent employees must submit their policy to the department at least every two years.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-25-025, filed 11/8/07, effective 12/11/07; 05-01-197, § 357-25-025, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-027 What must be included in the agency's sexual harassment policy?** Agencies as defined in RCW 41.06.020 must at a minimum include the following in their policy on sexual harassment:

- (1) Indicate who is covered by the policy;
- (2) Provide that the employer is committed to providing a working environment free from sexual harassment of any kind;
- (3) State that sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60;
- (4) The definition of sexual harassment as defined by the Equal Employment Opportunity Commission;
- (5) Notify the employee or individual of their right to file a complaint with the Washington State Human Rights Commission under RCW 49.60.230 or the Federal Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964;
- (6) Identify how and to whom employees or individuals may raise concerns or file complaints. The policy should allow multiple avenues for an employee or individual to raise complaints or concerns and should clearly identify the positions or entities charged with receiving these complaints;
- (7) Advise all individuals covered by the policy that the employer is under a legal obligation to respond to allegations concerning a violation of the policy;
- (8) Identify the manner by which the employer will respond to alleged violations of the policy, including a formal investigation if necessary;
- (9) State that the complainant shall be informed of the status and the outcome of an investigation;
- (10) Identify the agency's investigation or response procedure;
- (11) Define the roles and responsibilities of employees, managers, supervisors, and others covered by the policy with respect to the following:
  - (a) Preventing or not engaging in sexual harassment;
  - (b) Responding to concerns or allegations of violations of the policy;
  - (c) Participation in an investigation under the policy; and
  - (d) The prohibition against retaliation.
- (12) State that confidentiality cannot be guaranteed;
- (13) Advise that retaliation against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation is prohibited;
- (14) Advise that any employee found to have violated the policy will be subject to corrective and/or disciplinary action, up to and including dismissal; and

(15) Advise that any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-25-027, filed 11/8/07, effective 12/11/07.]

## Chapter 357-28 WAC COMPENSATION

### WAC

- 357-28-026 For what reasons may the director adopt special pay ranges and/or compensation practices for institutions of higher education and related boards?
- 357-28-027 How long will higher education special pay ranges remain in effect?
- 357-28-028 By whom and for what reasons may a higher education special pay request be submitted to the director?
- 357-28-029 When making a special pay request for higher education, what information must the requesting party provide department of personnel staff?
- 357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by WAC 357-10-010(1)?
- 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class after the initial implementation of the classification plan?

**WAC 357-28-026 For what reasons may the director adopt special pay ranges and/or compensation practices for institutions of higher education and related boards?** The director may adopt special pay ranges and/or compensation practices which are locally competitive to alleviate recruitment and/or retention problems, to maintain effective operations of an institution, or to address other unique working conditions.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-026, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-027 How long will higher education special pay ranges remain in effect?** Except when the director specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class equals or exceeds the special pay range.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-027, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-028 By whom and for what reasons may a higher education special pay request be submitted to the director?** A special pay request may be submitted by institutions of higher education and related boards:

- (1) When a unique configuration of work requires skills, duties, or working conditions beyond those typically required of comparable positions;
- (2) To alleviate employment problems such as recruitment and/or retention;
- (3) When failure to grant special pay could result in recruitment and/or retention problems which would seriously jeopardize the effective operation of the institution; or

(4) To prevent salary inversion or compression problems with other classes in the same or related series which have been granted special pay.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-028, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-029 When making a special pay request for higher education, what information must the requesting party provide department of personnel staff?** It is the responsibility of the requesting party to provide department of personnel staff with information necessary to make a recommendation to the director. Information to be provided must include:

- (1) Data supporting the pay practice in the locality of the institution for which the request is being made; and
- (2) Rationale supporting the request; and
- (3) When applicable, data showing recruitment/retention difficulty.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-029, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by WAC 357-10-010(1)?** When an employee's position is reallocated to a new class as a result of the director taking action to implement the new classification plan as required by WAC 357-10-010(1), the employee's salary will be adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

[Statutory Authority: Chapter 41.06 RCW. 07-11-100, § 357-28-125, filed 5/16/07, effective 7/1/07; 05-01-205, § 357-28-125, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class after the initial implementation of the classification plan?** When reallocation is necessary because the director creates, abolishes, or revises a class after the initial implementation of the classification plan, an employee's base salary is determined as follows:

- (1) An employee occupying a position reallocated to a class with the same or lower salary range must be paid an amount equal to his/her previous base salary.
- (2) An employee occupying a position reallocated to a class with a higher salary range must have his/her base salary adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

[Statutory Authority: Chapter 41.06 RCW. 07-11-100, § 357-28-130, filed 5/16/07, effective 7/1/07; 05-01-205, § 357-28-130, filed 12/21/04, effective 7/1/05.]

## Chapter 357-31 WAC HOLIDAYS AND LEAVE

### WAC

- 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?
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- 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?
- 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?
- 357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies?
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- 357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient?
- 357-31-460 For what purposes must parental leave be granted?
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- 357-31-565 May employers grant paid leave for purposes of recognition?
- 357-31-570 What is the purpose of a sick leave pool?
- 357-31-575 Must an agency have a written policy regarding sick leave pools?
- 357-31-580 What criteria does an employee have to meet to be eligible to participate in a sick leave pool?
- 357-31-585 Is participation in a sick leave pool voluntary?
- 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?
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- 357-31-660 Is participation in the uniformed service shared leave pool voluntary?
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- 357-31-670 How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence?
- 357-31-675 Is shared leave received under the uniformed service shared leave pool included in the two hundred sixty-one day total specified in RCW 41.04.665?
- 357-31-680 May employees donating leave direct the donation to a specific individual?
- 357-31-685 What types of leave can an employee donate for the purposes of the uniformed service shared leave pool?
- 357-31-690 How much leave may an employee withdraw from the uniformed service shared leave pool?
- 357-31-695 How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated?
- 357-31-700 What documentation is required to verify military salary and status?
- 357-31-705 What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool?
- 357-31-710 What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests?
- 357-31-715 May employers establish restrictions on the amount of leave an employee may receive under this section?
- 357-31-720 May an employer establish restrictions on the amount of leave an employee may donate under this section?
- 357-31-725 When an employer has determined that abuse of the uniformed service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool?

**WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?**

(1) An employer must approve the use of a personal holiday as long as:

(a) The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

(b) The employee has requested the personal holiday in accordance with the employer's leave procedures; and

(c) The employee's absence does not interfere with the operational needs of the employer.

(2) At any time, an employer must allow an employee to use part or all of the personal holiday for either of the following reasons:

(a) To care for a minor/dependent child with a health condition that requires treatment or supervision.

(b) To care for a spouse, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency health condition.

[Statutory Authority: Chapter 41.06 RCW. 07-03-054, § 357-31-070, filed 1/12/07, effective 2/15/07; 05-08-136, § 357-31-070, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-150 Can an employee be paid for accrued sick leave?** In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated, and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five percent or the employer may deposit equivalent funds in a med-

ical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-150, filed 5/16/07, effective 7/1/07; 07-03-051, § 357-31-150, filed 1/12/07, effective 2/15/07; 05-08-136, § 357-31-150, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?** When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

[Statutory Authority: Chapter 41.06 RCW. 07-11-093, § 357-31-255, filed 5/16/07, effective 7/1/07; 05-08-137, § 357-31-255, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?** At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

[Statutory Authority: Chapter 41.06 RCW. 07-11-096, § 357-31-265, filed 5/16/07, effective 7/1/07; 05-08-137, § 357-31-265, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies?** Absence because of an employee's inability to report for or continue scheduled work due to a family care emergency:

(1) **Must** be authorized for care of the employee's spouse, household member or the employee's/spouse's minor/dependent child, parent or grandparent up to the limits specified in WAC 357-31-300.

(2) **May** be authorized for care of others, including a child over the age of eighteen who is capable of self care, in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 07-03-054, § 357-31-285, filed 1/12/07, effective 2/15/07; 05-08-137, § 357-31-285, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-327 Must an employer grant leave without pay for other miscellaneous reasons?** An employer must grant leave without pay when an employee who is a volunteer fire fighter is called to duty to respond to a fire, natural disaster, or medical emergency.

[Statutory Authority: Chapter 41.06 RCW. 07-17-129, § 357-31-327, filed 8/20/07, effective 9/20/07.]

**WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave?** An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(b) The employee has been called to service in the uniformed services; or

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers his/her services to either a governmental agency or to a non-profit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services.

(2) The illness, injury, impairment, condition, call to service, or emergency volunteer service has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete his or her:

(a) Personal holiday, accrued vacation leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Personal holiday and accrued vacation leave if the employee qualifies under (1)(c) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

[Statutory Authority: Chapter 41.06 RCW. 07-17-126, § 357-31-390, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-390, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-400 How much shared leave may an employee receive?** The employer determines the amount of leave, if any, which an employee may receive under these rules. However, an employee must not receive more than two hundred sixty-one days of shared leave during total state employment and a nonpermanent employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the expected end date of the appointment. Leave used under the sick leave pool program, as described in WAC 357-31-570, is included in the two hundred sixty-one day limit.

Employers are encouraged to consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time, or special assignments in place of shared leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-400, filed 5/16/07, effective 7/1/07; 05-08-139, § 357-31-400, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-405 What documentation may an employee seeking shared leave be required to submit?** (1) For employees seeking shared leave under WAC 357-31-390 (1)(a), the employer may require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition before the employer approves or disapproves the request.

(2) For employees seeking shared leave under WAC 357-31-390 (1)(b), the employer may require the employee to submit a copy of the military orders verifying the employee's required absence before the employer approves or disapproves the request.

(3) For employees seeking shared leave under WAC 357-31-390 (1)(c), proof of acceptance of an employee's offer to volunteer for either a governmental agency or a non-profit organization during a declared state of emergency.

[Statutory Authority: Chapter 41.06 RCW. 07-17-126, § 357-31-405, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-405, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient?** (1) Any shared leave not used by the recipient during each incident/occurrence as determined by the employer must be returned to the donor(s).

If shared leave has been granted under WAC 357-31-390 (1)(a), before the employer makes a determination to return the unused leave to the donor(s) the employer must receive from the affected employee's licensed physician or health care practitioner a statement verifying that the employee is released to return to work.

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The remaining shared leave must be returned to the donors and reinstated to the respective donors' appropriate leave balances based on each employee's current salary rate at the time of the reversion. The shared leave returned must be returned in accordance with office of financial management policies.

(2) Unused shared leave may not be cashed out by a recipient.

[Statutory Authority: Chapter 41.06 RCW. 07-17-126, § 357-31-445, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-445, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-460 For what purposes must parental leave be granted?** (1) Employers must grant parental leave to employees for purposes of:

(a) The birth and care of a newborn child of the employee; or

(b) Placement of a minor/dependent child with the employee for adoption or foster care.

(2) Parental leave must be taken during the first year following the child's birth or placement of the minor/dependent child with the employee for adoption or foster care.

[Statutory Authority: Chapter 41.06 RCW. 07-03-054, § 357-31-460, filed 1/12/07, effective 2/15/07; 05-08-140, § 357-31-460, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?** Under RCW 49.78.390, the family leave required by [U.S.C. 29.2612 (a)(1)(A) and (B) of] the Federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) must be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth as provided in WAC 357-31-500.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-31-480, filed 8/20/07, effective 9/20/07; 07-11-094, § 357-31-480, filed 5/16/07, effective 7/1/07; 05-08-140, § 357-31-480, filed 4/6/05, effective 7/1/05.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 357-31-565 May employers grant paid leave for purposes of recognition?** Employers who have received performance management confirmation may grant employees up to five days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of predefined work goals by individual employees or units. Leave granted under this provision:

(1) Is not payable upon layoff, dismissal, separation, or resignation or transferable between employers;

(2) Must be used within twelve months of the leave being granted.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-31-565, filed 8/20/07, effective 9/20/07; 06-23-091, § 357-31-565, filed 11/14/06, effective 12/18/06; 05-08-140, § 357-31-565, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-570 What is the purpose of a sick leave pool?** The purpose of a sick leave pool is to allow general government state employees, within an agency, to pool sick leave to be used by participating employees who have a personal illness, accident, or injury. Sick leave contributed to a



sick leave pool will be deducted from the contributing employee's sick leave balance.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-570, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-575 Must an agency have a written policy regarding sick leave pools?** Prior to creating a sick leave pool, an agency that decides to participate in the sick leave pool program must appoint an administrator for each sick leave pool and develop a written policy which at a minimum addresses:

(1) Eligibility requirements for employees who wish to participate;

(2) Enrollment process including when open enrollment will occur;

(3) Amount of sick leave an employee must initially contribute to become a participant;

(4) Amount of sick leave a participating employee must contribute when a pool becomes depleted;

(5) When a pool will be considered to be "depleted";

(6) What happens when a participating employee does not have enough leave to contribute to the pool;

(7) The process and criteria that will be used when a sick leave pool participant needs to withdraw sick leave from the pool;

(8) What happens when there is not enough leave in a pool to cover pool participants' requests to withdraw leave;

(9) The manner in which alleged abuse of the sick leave pool will be investigated and what actions will be taken if it has been determined that abuse has occurred;

(10) The manner in which employees can request an internal review of a finding of wrongdoing under subsection (9) of this section;

(11) Transferring of sick leave credits when a pool participant moves from one pool to another pool; and

(12) What happens to leave credits that are in a pool if the pool is disbanded.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-575, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-580 What criteria does an employee have to meet to be eligible to participate in a sick leave pool?** An employee is eligible to participate in a sick leave pool after one continuous year of state employment and after accruing at least forty-eight hours of unused sick leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-580, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-585 Is participation in a sick leave pool voluntary?** Participation in a sick leave pool must, at all times, be voluntary on the part of the employee.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-585, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?** A participating employee is eligible to use sick leave from a pool only when the employee has a personal illness, accident, or injury and the employee has exhausted all of

his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-590, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-595 Is a participant eligible to use sick leave from a pool if his/her illness or injury is work-related?** If the illness or injury is work-related and the participant has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW the participant may be eligible to use leave from a pool if he/she has exhausted all of his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-595, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-600 Is there a limit to the amount of sick leave a participating employee may withdraw from a sick leave pool?** A participating employee may not withdraw more than two hundred sixty-one days from a sick leave pool for the entire duration of state employment. The two hundred sixty-one days includes any days an employee has received under the Washington shared leave program. One day equals eight hours of leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-600, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-605 What rate of pay is the participant who withdraws sick leave from the pool paid?** A participant who withdraws sick leave from a sick leave pool will be paid his/her regular rate of pay.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-605, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-610 How does a part-time participating employee withdraw sick leave credits from a sick leave pool?** A part-time participating employee withdraws sick leave credits from a sick leave pool on a pro rata basis.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-610, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-615 When a participating employee uses leave from a sick leave pool will he/she be required to recontribute such sick leave to the pool?** When a participating employee uses leave from a sick leave pool he/she will not be required to recontribute such leave to the pool unless the agency has determined that abuse of the pool has occurred.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-615, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-620 When an agency has determined that abuse of a sick leave pool has occurred will the employee have to repay the sick leave credits drawn from the pool?** Alleged abuse of the use of a sick leave pool will be investigated, and, on a finding of wrongdoing, the employee must repay all of the sick leave credits drawn from the sick leave pool. The employee may be subject to disciplinary action as determined by the agency head. The only

time an employee will have to repay sick leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-620, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-625 When an employee cancels his/her membership in a sick leave pool, can the employee withdraw the days of sick leave he/she had contributed to the pool?** An employee who cancels his/her membership in a sick leave pool is not eligible to withdraw the hours of sick leave he/she had contributed to the pool.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-625, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-630 Can a participant who moves from one general government position to a different general government position transfer from one sick leave pool to another sick leave pool?** A participant who moves between general government positions within his/her agency or with a different agency may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-630, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-635 What records must an employer maintain pertaining to sick leave pools?** Each agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and available to sick leave pool participants and the amount of leave that has been used by participants.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-635, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-640 What is the purpose of the uniformed service shared leave pool?** The uniformed service shared leave pool was created so that state employees who are called to service in the uniformed services will be able to maintain a level of compensation and employee benefits consistent with the amount they would have received had they remained in active state service. The pool was also created to allow general government and higher education employees to voluntarily donate their leave to be used by any eligible employee who has been called to service in the uniform services for the purpose set forth herein.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-640, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-645 Who will administer the uniformed service shared leave pool?** The military department, in consultation with the department of personnel and the office of financial management, shall administer the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-645, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-650 What definitions apply to the uniformed service shared leave pool?** The following definitions apply to the uniformed service shared leave pool:

(1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained. This does not include employees of school districts and educational service districts.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(3) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(4) "Military salary" means the base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(5) "Monthly salary" means the monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. Monthly salary does not include overtime pay, callback pay, standby pay or performance bonuses.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-650, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-655 Must employers have a written policy regarding the uniformed service shared leave pool?** Each employer must have a written policy which at a minimum addresses:

- (1) Eligibility requirements for use of the uniformed service shared leave pool;
- (2) Donation of leave;
- (3) Use of pool leave; and
- (4) Abuse of pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-655, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-660 Is participation in the uniformed service shared leave pool voluntary?** Participation in the uniformed service shared leave pool, must at all times, be voluntary on the part of the donating and receiving employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-660, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-665 What criteria does an employee have to meet to be eligible to request leave from the uniformed service shared leave pool?** Employees are eligible to request leave from the uniformed service shared leave pool if they are called to service in one of the uniformed services and eligible for shared leave under RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-665, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-670 How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence?** An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-670, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-675 Is shared leave received under the uniformed service shared leave pool included in the two hundred sixty-one day total specified in RCW 41.04.665?** Shared leave received under the uniformed service shared leave pool is not included in the two hundred sixty-one day total specified in RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-675, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-680 May employees donating leave direct the donation to a specific individual?** Leave donated under this section is "pooled" and is withdrawn from the pool by eligible employees according to priorities established by the military department. Leave donated cannot be directed to a specific individual.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-680, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-685 What types of leave can an employee donate for the purposes of the uniformed service shared leave pool?** An employee may donate vacation leave, sick leave, or all or part of a personal holiday for purposes of the uniformed service shared leave pool under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to the uniformed service shared leave pool and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to the uniformed service shared leave pool and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his/her personal holiday to an employee authorized to receive leave under the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-685, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-690 How much leave may an employee withdraw from the uniformed service shared leave pool?** Shared leave paid under this section, in combination with military salary, as defined in WAC 357-31-650(4), shall not exceed the level of the employee's state monthly salary as defined in WAC 357-31-650(5). However, up to eight hours

per month of shared leave under this section may be withdrawn and used to continue coverage under the public employees' benefits board, regardless of the employee's monthly salary and military salary.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-690, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-695 How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated?** The basis for calculating the maximum shared leave pay granted from the uniformed service shared leave pool is the greater of:

(1) The difference between the employee's current monthly salary (as defined in WAC 357-31-650(5)) and his/her monthly military salary (as defined in WAC 357-31-650(4)) or;

(2) The dollar value associated with the number of hours required to maintain eligibility for employee benefits.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-695, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-700 What documentation is required to verify military salary and status?** Employees must provide the military department earnings statements verifying military salary and a copy of their orders of service. Employees must notify the military department of any changes to orders of service or military salary and shall submit updated copies of their earnings statements and orders of service when requested by the military department.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-700, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-705 What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool?** The receiving employee is paid his/her regular rate of pay. Therefore, the value of one hour of donated shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-705, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-710 What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests?** The uniformed service shared leave pool cannot grant more leave than the leave balance available at the time a request is received.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-710, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-715 May employers establish restrictions on the amount of leave an employee may receive under this section?** Except in the event of a violation of rule or statute, an employer is required to permit an eligible employee to receive leave from the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-715, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-720 May an employer establish restrictions on the amount of leave an employee may donate under this section?** An employer may limit the amount of leave an employee may donate under this section, if authorization of such donation would be in violation of rule or statute.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-720, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-725 When an employer has determined that abuse of the uniformed service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool?** Employers shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-725, filed 8/20/07, effective 10/1/07.]

## Chapter 357-34 WAC

### EMPLOYEE TRAINING AND DEVELOPMENT

#### WAC

357-34-100	How often are general government employees required to complete sexual harassment awareness and prevention training?
357-34-105	How often are general government managers and supervisors required to complete additional sexual harassment awareness and prevention training?
357-34-110	Under what circumstances may the general government employer waive the required sexual harassment awareness and prevention training for a new employee?
357-34-115	What must be included in the required sexual harassment awareness and prevention training?
357-34-120	Who provides the required sexual harassment awareness and prevention training?
357-34-125	How do agencies report their compliance with WAC 357-34-100 to the department?

**WAC 357-34-100 How often are general government employees required to complete sexual harassment awareness and prevention training?** Employees of agencies defined in RCW 41.06.020 are required to complete sexual harassment awareness and prevention training at least every five years. For new employees sexual harassment awareness and prevention training should be completed within the first six months of employment, or earlier if required by the employer's sexual harassment policy.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-100, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-105 How often are general government managers and supervisors required to complete additional sexual harassment awareness and prevention training?** Effective July 1, 2008, in addition to the training described in WAC 357-34-100, all managers and supervisors of agencies defined in RCW 41.06.020 are required to complete training on managers' roles and responsibilities regarding sexual harassment every three years. For new supervisors and managers, training on roles and responsibilities should be

completed within the first six months of becoming a manager or supervisor.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-105, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-110 Under what circumstances may the general government employer waive the required sexual harassment awareness and prevention training for a new employee?** Agencies as defined in RCW 41.06.020 may waive the sexual harassment awareness and prevention training or the managers' roles and responsibilities training required for a new employee if the employee can show proof of attending training given by another state agency, within the time frame that satisfies the requirements of this chapter.

If the sexual harassment awareness and prevention training is waived for a new employee the agency must review their sexual harassment policy with the new employee. The employee must take the next training within five years of completion of the sexual harassment awareness and prevention training or within three years of completion of the managers' roles and responsibilities training with their former state agency.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-110, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-115 What must be included in the required sexual harassment awareness and prevention training?** The requirements of the sexual harassment awareness and prevention training will be published by the department. All training must satisfy the requirements by July 1, 2008.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-115, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-120 Who provides the required sexual harassment awareness and prevention training?** Either the department or the agency may provide the sexual harassment awareness and prevention training.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-120, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-125 How do agencies report their compliance with WAC 357-34-100 to the department?** Agencies as defined in RCW 41.06.020 must report to the department at least every two years regarding their compliance with WAC 357-34-100 and 357-34-105. These agencies must submit a statement signed by the agency head indicating the percentage of employees who are current in the required sexual harassment awareness and prevention training and the percentage of managers and supervisors who are current in the required roles and responsibilities training. Agencies will submit their statements as follows:

(1) Agencies with fifty or more full time equivalent employees must submit their statement to the department with the employer's affirmative action plan and affirmative action plan update.

(2) Agencies with twenty-five to forty-nine full time equivalent employees must submit their statement to the department with their small agency workforce profile.

(3) Agencies with fewer than twenty-five full time equivalent employees must submit their statement to the department with the agency's sexual harassment policy.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-125, filed 11/8/07, effective 12/11/07.]

### **Chapter 357-43 WAC EMPLOYEE BUSINESS UNITS**

#### **WAC**

- 357-43-001 What definitions apply to this chapter of the civil service rules?
- 357-43-003 Can EBU members choose which civil service rules will apply to them?
- 357-43-007 What provisions apply when an employee's position is eliminated because the employer has awarded a contract through the competitive contracting process as described in Title 236 WAC?
- 357-43-008 What happens if an employee chooses to not be a part of the employee business unit?
- 357-43-115 If an employee business unit member accepts an appointment to an exempt position, what are the employee's return rights?

#### **DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 357-43-010 Do the other rules in Title 357 WAC governing classified employees apply to employee business unit members? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-010, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-055 Can employee business unit members accrue vacation leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-055, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-060 Can employee business unit members accrue sick leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-060, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-065 Can employee business unit members cash out sick leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-065, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-070 Are employee business unit members eligible for legal holidays? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-070, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-075 Are employee business unit members eligible to receive a personal holiday? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-075, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-080 Are employee business unit members eligible to participate in the employer's shared leave program? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-080, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-085 Are employee business unit members eligible to receive military leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-085, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-095 Must an employee business unit have a layoff procedure? [Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-095, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-100 What layoff rights must be included in the employee business unit's layoff procedure? [Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-100, filed

12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.

357-43-105 When is a general government employee business unit member eligible for placement in the general government transition pool? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-105, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.

357-43-120 Can EBU members receive financial incentives for any cost savings that result from completing performance requirements for less cost or better efficiency than what was anticipated in the agreement with the EBU? [Statutory Authority: Chapter 41.06 RCW. 05-19-010, § 357-43-120, filed 9/8/05, effective 10/10/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.

#### **WAC 357-43-001 What definitions apply to this chapter of the civil service rules? The following definitions apply to chapter 357-43 WAC:**

(1) **Appointing authority:** An individual lawfully authorized to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

(2) **Contract:** A formal and binding agreement or an amendment to an agreement between an employer and an employee business unit for performing services as defined in the competitive contracting solicitation.

(3) **Employee business unit:** A group of employees who perform services for which an employer proposes to competitively contract and who:

(a) Notify the agency of their intent to submit a bid for the performance of those services through competitive contracting; or

(b) Receive award of a contract from the employer as a result of being a successful bidder.

(4) **Employee business unit member:** A classified employee working under the provisions of chapter 357-43 WAC.

(5) **Employer:** A state agency, an institution of higher education, or a related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-001, filed 5/16/07, effective 7/1/07; 05-01-193, § 357-43-001, filed 12/21/04, effective 7/1/05.]

#### **WAC 357-43-003 Can EBU members choose which civil service rules will apply to them? EBU members may choose to opt out of civil service rules that are not required in statute.**

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-003, filed 5/16/07, effective 7/1/07.]

#### **WAC 357-43-007 What provisions apply when an employee's position is eliminated because the employer has awarded a contract through the competitive contracting process as described in Title 236 WAC? WAC 357-46-012 governs layoff actions resulting from the competitive contracting process as described in Title 236 WAC.**

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-007, filed 5/16/07, effective 7/1/07; 05-01-185, § 357-43-007, filed 12/21/04, effective 7/1/05.]

#### **WAC 357-43-008 What happens if an employee chooses to not be a part of the employee business unit?**

When an employee chooses to not be a part of the employee business unit, the following applies:

(1) If the employee chooses to not be a part of the employee business unit before the employer's notification of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the employee has layoff rights in accordance with WAC 357-46-012.

(2) If the employee chooses to not be a part of the employee business unit after the employer's notification of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the employee has no layoff rights under chapter 357-46 WAC and is considered to have resigned when his/her position is eliminated.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-008, filed 5/16/07, effective 7/1/07; 05-19-003, § 357-43-008, filed 9/8/05, effective 10/10/05.]

**WAC 357-43-115 If an employee business unit member accepts an appointment to an exempt position, what are the employee's return rights?** A former employee business unit member who was appointed to an exempt position from the employee business unit has return rights provided in RCW 41.06.070.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-115, filed 5/16/07, effective 7/1/07; 05-01-193, § 357-43-115, filed 12/21/04, effective 7/1/05.]

## Chapter 357-46 WAC

### LAYOFF AND SEPARATION

#### WAC

357-46-010	What are the reasons for layoff?
357-46-012	Following the award of a contract under the competitive contracting process (as described in Title 236 WAC), how does an employer lay off employees whose positions are being eliminated due to the awarded contract?
357-46-020	What must be included in the employer's layoff procedure?
357-46-100	Who administers and establishes operating procedures for the general government transition pool program?

#### **WAC 357-46-010 What are the reasons for layoff?**

(1) Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules. The reasons for layoff include, but are not limited to, the following:

- (a) Lack of funds;
- (b) Lack of work; or
- (c) Organizational change.

(2) Examples of layoff actions due to lack of work may include, but are not limited to:

- (a) Termination of a project or special employment;
- (b) Availability of fewer positions than there are employees entitled to such positions;

(c) Employee's ineligibility to continue in a position following its reallocation to a class with a higher salary range maximum; or

(d) Employee's ineligibility to continue, or choice not to continue, in a position following its reallocation to a class with a lower salary range maximum.

(e) Elimination of a position due to the work of the position being competitively contracted.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-46-010, filed 8/20/07, effective 9/20/07; 05-19-004, § 357-46-010, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-010, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-012 Following the award of a contract under the competitive contracting process (as described in Title 236 WAC), how does an employer lay off employees whose positions are being eliminated due to the awarded contract?** (1) If an employee business unit as defined by WAC 357-43-001 is not awarded the contract, all employees whose positions are being eliminated are subject to the employer's layoff procedure when the positions are eliminated or reduced.

(2) Employees whose positions are being eliminated who are not part of the employee business unit awarded the contract are subject to the employer's layoff procedure when the employees' positions are eliminated or reduced. (See WAC 357-43-008 for what happens if an employee chooses to not be a part of the employee business unit.)

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-46-012, filed 5/16/07, effective 7/1/07; 05-19-004, § 357-46-012, filed 9/8/05, effective 10/10/05.]

**WAC 357-46-020 What must be included in the employer's layoff procedure?** The employer's layoff procedure must:

(1) Identify clearly defined layoff unit(s) that minimize disruption of the employer's total operation and provide options to employees scheduled for layoff;

- Employers may establish separate and exclusive layoff units for project employment, employee business units, or special employment programs.

(2) Provide opportunities to avoid or minimize layoff, such as transfers, voluntary demotion, voluntary reduced work schedule, or voluntary leave without pay;

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-46-025;

(4) Provide layoff options for permanent employees being laid off as provided in WAC 357-46-035;

(5) Address the time frame in which employees must select a layoff option;

(6) Define what the employer considers when determining the comparability of a position;

(7) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-46-035;

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress.

(8) Describe how employment retention ratings will be calculated, including options for factoring performance into ratings; and

(9) Specify how the employer will break ties when more than one employee has the same employment retention rating.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-46-020, filed 5/16/07, effective 7/1/07; 04-18-114, § 357-46-020, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-100 Who administers and establishes operating procedures for the general government transition pool program?** The department administers the general government transition pool program. The director develops and implements appropriate operating procedures to facilitate the program. The operating procedures include the following requirements:

(1) General government employers must provide for consideration of transition pool candidates when a certified pool contains eligible candidates other than candidates from the employer's internal or statewide layoff list or the employer's internal promotional eligibles.

(2) Transition pool candidates must satisfy the competency and other position requirements to be considered for a position.

[Statutory Authority: Chapter 41.06 RCW. 07-03-053, § 357-46-100, filed 1/12/07, effective 2/15/07; 06-03-073, § 357-46-100, filed 1/12/06, effective 2/13/06; 05-19-005, § 357-46-100, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-100, filed 9/1/04, effective 7/1/05.]

## Chapter 357-58 WAC

### WASHINGTON MANAGEMENT SERVICE

#### WAC

357-58-065	Definitions for WMS.
357-58-475	Does a veteran receive any preference in layoff?

**WAC 357-58-065 Definitions for WMS.** The following definitions apply to chapter 357-58 WAC:

(1) **Competencies.** Those measurable or observable knowledge, skills, abilities, and behaviors critical to success in a key job role or function.

(2) **Dismissal.** The termination of an individual's employment for disciplinary purposes.

(3) **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

(4) **Evaluation points.** Evaluation points are the points resulting from an evaluation of a position using the managerial job value assessment chart.

(5) **Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

(6) **Management bands.** Management bands are a series of management levels included in the Washington management service. Placement in a band reflects the nature of management, decision-making environment and policy impact, and scope of management accountability and control assigned to the position.

(7) **Performance management confirmation.** Approval granted by the director of the department of personnel to an employer allowing the employer to link individual employee performance to compensation or layoff decisions.

(8) **Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions, or circumstances associated with the job.

(9) **Reassignment.** A reassignment is an employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and its incumbent from one section, department, or geographical location to another section, department, or geographical location.

(10) **Review period.** The review period is a period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

(11) **Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

(12) **Separation.** Separation from state employment for nondisciplinary purposes.

(13) **Suspension.** An absence without pay for disciplinary purposes.

(14) **Transfer.** A WMS transfer is an employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

(15) **Washington general service (WGS).** Washington general service is the system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

(16) **Washington management service (WMS).** Washington management service is the system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-58-065, filed 5/16/07, effective 7/1/07; 05-21-060, § 357-58-065, filed 10/13/05, effective 11/15/05; 05-12-068, § 357-58-065, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-475 Does a veteran receive any preference in layoff?** (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding the eligible veteran's total active military service, not to exceed five years, to his/her unbroken service date.

(2) An eligible veteran is defined as any permanent employee who:

(a) Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and

(b) Has received, upon termination of such service:

(i) An honorable discharge;

(ii) A discharge for physical reasons with an honorable record; or

(iii) A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The surviving spouse of an eligible veteran is entitled to veteran's seniority preference for up to five years as outlined in subsection (1) and (2) of this section regardless of

whether the veteran had at least one year of active military service.

[Statutory Authority: Chapter 41.06 RCW. 07-23-011, § 357-58-475, filed 11/8/07, effective 12/11/07; 05-12-071, § 357-58-475, filed 5/27/05, effective 7/1/05.]